

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARK G. BRALLEY,¹

Plaintiff,

v.

No. 13-cv-0768 JB/SMV

**ALBUQUERQUE PUBLIC SCHOOLS BD. OF EDUC.,
ROBERT LUCERO, DAVID ROBBINS,
PAULA MAES, MARTIN ESQUIVEL,
KATHERINE KORTE, ALBUQUERQUE PUBLIC
SCHOOLS, WINSTON BROOKS, BRADLEY WINTER,
MONICA ARMENTA, RIGO CHAVEZ,
JOHN MILLER, STEVE TELLEZ, STEVE GALLEGOS,
and ALBUQUERQUE PUBLIC SCHOOLS POLICE DEP'T,**

Defendants.

**MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER is before the Court on Plaintiff's Answer [to] Order to Show Cause [Doc. 137], filed on January 19, 2016. The Court finds that Plaintiff offers no sufficient reason to excuse his failure to cooperate in preparing a proposed Pretrial Order. Therefore, sanctions are warranted.

On April 1, 2015, the Court issued a First Amended Scheduling Order. [Doc. 86]. (The CM/ECF notice of electronic filing indicates that the First Amended Scheduling Order was delivered to Plaintiff via email.) In pertinent part, the First Amended Scheduling Order directed

¹ Plaintiff proceeds pro se. Following a telephonic status conference held on May 28, 2015, the Court referred this case to the pro bono panel with a request that one of the attorneys consider offering to represent Plaintiff. However, the panel has declined the request. Accordingly, the Court encourages Plaintiff to secure representation by a licensed attorney.

the parties to cooperate in preparing a proposed Pretrial Order. *Id.* at 4. Plaintiff's portion was due to Defendants by December 14, 2015, and Defendants were to complete their portion and submit the proposed order to the Court by December 28, 2015. *Id.* Defendants timely submitted their portion, indicating that, despite their request to Plaintiff for his portion, he had "declined" to provide it. [Doc. 135] at 1–3, n.1. Thus, the Court ordered Plaintiff to show cause no later than January 19, 2016, why he should not be sanctioned for his failure to participate in the proposed Pretrial Order, in accordance with the First Amended Scheduling Order [Doc. 86]. Plaintiff timely responded. [Doc. 137].

On review of Plaintiff's show-cause response [Doc. 137], the Court finds that Plaintiff fails to show any good reason for his failure to comply with the Court's order to cooperate in preparing a proposed Pretrial Order.

IT IS THEREFORE RESPECTFULLY RECOMMENDED that the presiding judge **ADOPT** the proposed Pretrial Order as submitted by Defendants [Doc. 135] on December 28, 2015.

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN FOURTEEN DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition, they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). **A party must file any written objections with the Clerk of the District Court within the 14-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.**



STEPHAN M. VIDMAR
United States Magistrate Judge